

Assuming that the Office Action is Final, Applicant asserts that such a Final Rejection is not proper. As stated in MPEP 706.07(a), second actions on the merits "shall be final, **except** where the examiner introduces a **new ground** of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in and information disclosure statement." As stated in paragraph 4 of the Office Action, the Office presented "new ground(s) of rejection." Applicant did not submit a new information disclosure statement and it is unclear how Applicant's claim amendments of April 9, 2002 can be deemed to **necessitate** the new ground of rejection. Applicant respectfully requests that the Office remove the Finality of the pending Office Action.

The Office rejected claims 1-3, 5-6, and 8 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's "Admitted Prior Art" in view of John L. Weston (GB 2174663A). The Office asserts that Applicant's "Admitted Prior Art" discloses an input device comprising: a cursor control including a wrist rest (11A), a cursor control device (12) mounted forward of the wrist rest, and a select button (13). The Office further asserts that the "Admitted Prior Art" did not teach a rotary knob mounted on the console. However, the Office asserts that the Weston patent "clearly states that it is well known for an aircraft console to have a knob," referring to figures 2-5 of Weston.

In addition, the Office rejected claims 4, 7, and 9-10 under 35 U.S.C. § 103(a) as being unpatentable over Applicant's "Admitted Prior Art" in view of John L. Weston (GB 2174663A) as applied to the above claims, and further in view of an article from *Aerospace Engineering*, as the combination of the "Admitted Prior Art" and Weston fails to disclose manipulating a cursor control device to select a parameter and the use of a joystick.

It is well-settled that the Office bears the burden of setting forth a detailed evidentiary basis for the teaching, suggestion, or motivation to combine the cited references. The Office Action fails to provide such an evidentiary basis. As recently stated by the Federal Circuit, the factual inquiry of whether to combine references must be thorough and searching, and must be based upon objective evidence of record. *In re Sang Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). The Office must therefore set forth, in detail, its findings and the grounds for the findings, as supported by the record, and

must explain its application of law to the found facts. No such evidence or explanation is provided in the Office Action. Accordingly, the rejection cannot stand and reconsideration is respectfully requested.

The present invention claims, *Inter alia*, "a rotary knob mounted on said console and within finger reach of said wrist rest." The Office does not assert that the proximity of the knob is taught by the Weston reference. Indeed, the Weston reference fails to teach any location of a knob, merely disclosing the existence of a knob. The combination of elements recited by the Office does not result in the present invention. Therefore, Applicant asserts that the combination of Weston and the "Admitted Prior Art" does not disclose the present invention. As such, the combination of the cited references cannot render the present invention obvious.

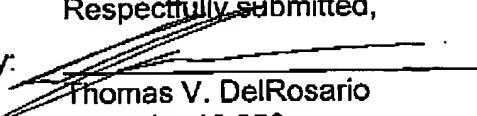
In addition, the present application presents the solution to a long-standing problem that had remained unsolved in the prior art. As stated in the specification as filed in the paragraph starting at page 1, line 25, prior art CCDs are difficult to precisely control "in an aircraft where space is limited and the environment can be extremely turbulent during bad weather." In particular, as stated in the paragraph starting at page 2, line 19, there is difficulty in entering alphanumeric data with a CCD of the prior art. Thus, the present invention solves a long-standing problem that had been previously unresolved. Due to the fact that the problem remained unresolved, Applicant asserts that it would not have been obvious to include the various elements of the present invention.

Moreover, Applicants assert that Weston is non-analogous art. The Weston invention is particular to the use of MLS (Microwave Landing Systems) receivers. Thus, Applicants assert that the Weston invention is non-analogous art. MPEP 2141.01(a) states that a reference must be in the field of the applicant's art or reasonably pertinent to the problem being solved in order to be relied upon in a rejection. As Weston refers specifically to a specific type of controller, Applicant's assert that Weston is non-analogous prior art, the use of which is impermissible in section 103 rejections. Therefore, the use of Weston in all of the claims is improper and Applicant respectfully requests the removal of the section 103 rejections.

CONCLUSION

In view of the foregoing, Applicants believe that all of the pending claims comply with 35 U.S.C. § 112 and are allowable over the references of record. Therefore, reconsideration of the application and allowance of all pending claims is earnestly solicited. The Examiner is invited to telephone the undersigned at the number listed below to discuss any of the foregoing in greater detail or to otherwise expedite the prosecution of the application.

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Respectfully submitted,
By: 
Thomas V. DelRosario
Reg. No. 46,658
Attorney for:
Honeywell International, Inc.
Law Dept. AB2
PO Box 2245
Morristown, NJ 07962-2245
(602) 382-6219
Fax: (602) 382-6070